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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/834,679	04/13/2001	Tetsuo Takeshima	36856,457	5620

7590

07/17/2002

Keating & Bennett LLP
Suite 312
10400 Eaton Place
Fairfax, VA 22030

EXAMINER

MEDLEY, PETER M

ART UNIT

PAPER NUMBER

2834

DATE MAILED: 07/17/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/834,679

Applicant(s)

TAKESHIMA, TETSUO

Examiner

Peter M Medley

Art Unit

2834

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 April 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 4-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 4-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____. 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, and 4-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ormerod et al.

With respect to claims 1, 4, and 5, the reference discloses in the **fig. 3** a rectangular laminated ceramic bender with resin barrier.

The reference does not disclose that polarization directions.

The Examiner takes Official Notice that it would have been well known in the art that bender use laminates that are polarized in the same direction. It would have been obvious to one of ordinary skill in the art to use polarization in the same directions for the purpose of creating a bending device.

With respect to claim 2, the reference does not disclose a stiffened coating.

The Examiner takes Official Notice that the use of stiffened coating would have been well known for the purpose of providing increase durability.

It would have been obvious to one of ordinary skill in the art to use a stiffened coating for the purpose of increasing the durability of the device.

With respect claims 6-8, the reference discloses the same electrode structure in **fig. 2**.

Response to Arguments

Applicant's arguments filed 15 April 2002 have been fully considered but they are not persuasive.

With respect to the 112 rejections, the rejections have been withdrawn, but it should be noted that the Applicant has not defined "front" and "back" in terms of claims limitations. The Examiner has examined the claims with "front" meaning top and "back" meaning bottom.

With respect to the resin of the 103 rejection, it is the Examiner position that the broadest reasonable definition of resin includes parylene. Even if the definition does not include parylene, it is the Examiner's position that parylene is equivalent to resin because the way, function, and result of parylene and resins are the same.

With respect to the Official Notice, the Examiner provides Toki (5,856,956). Applicant is pointed to the last paragraph of column 4.

With respect to alternating current, it is the Examiner position that the limitation relied upon by Applicant is functional and adds not additional structural limitations. Courts have found that claims directed to apparatus must be distinguished from the prior art in terms of structure rather than function. In re Danly, 263 F.2d 844, 847, 120 USPQ 528, 531 (CCPA 1959). "[A]pparatus claims cover what a device is, not what a device does." Hewlett-Packard Co. v. Bausch & Lomb Inc., 909 F.2d 1464, 1469, 15 USPQ2d 1525, 1528 (Fed. Cir. 1990). (emphasis in original).


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter M Medley whose telephone number is 703-305-0494. The examiner can normally be reached on Monday-Friday 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nestor Ramirez can be reached on 703-308-1371. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3432 for regular communications and 703-305-3432 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

PM
July 15, 2002


NESTOR RAMIREZ
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800